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23 **UNITED STATES DISTRICT COURT**
24 **DISTRICT OF NEVADA**

25 ADDISON HEMPEL, CASSIDY
26 HEMPEL, CHRISTINE HEMPEL, HUGH
27 HEMPEL, and SOLUTION
28 THERAPEUTICS,

Plaintiffs,

v.

CYDAN DEVELOPMENT, INC.,
CYDAN II, INC., VTESSE, INC.,
SUCAMPO PHARMACEUTICALS,
INC., and DOES I-X and ROE
CORPORATIONS I-V, inclusive,

Defendants.

Case No. 3:18-cv-00008-MMD-VPC

**JOINT STIPULATION AND [PROPOSED]
ORDER AMENDING DISCOVERY
PLAN AND SCHEDULING ORDER**

(FIRST REQUEST)

1 Pursuant to the Court's order of October 18, 2018 (ECF No. 47), Plaintiffs Addison
2 Hempel, Cassidy Hempel, Christine Hempel, Hugh Hempel, and Solution Therapeutics ("Plain-
3 tiffs") and Defendants Cydan Development, Inc., Cydan II, Inc., Vtesse, Inc., and Sucampo
4 Pharmaceuticals, Inc. ("Defendants"), re-submit this joint stipulation and proposed order amend-
5 ing the discovery plan and scheduling order in this case.

6 The parties met and conferred on September 20, 2018. This is their first request to amend
7 the discovery plan and scheduling order submitted by the parties with their Joint Status Report.
8 *See* ECF No. 34. Pursuant to Local Rule 26-4, the parties state the following:

9 (a) The following discovery has been completed:

- 10 1. The parties submitted initial disclosures;
- 11 2. Defendants responded to two rounds of Requests for Production from Plaintiffs.
12 Plaintiffs responded to two rounds of Requests for Production from Defendants.
- 13 3. The Parties identified and collected a substantial amount of electronically stored
14 information from numerous custodians. The parties swapped lists of custodians
15 and search terms, and each of the parties agreed to add search terms suggested by
16 the other. Defendants collected millions of documents from more than a dozen
17 custodians (including multiple corporate custodians) and manually reviewed over
18 100,000 of these documents. Plaintiffs have collected approximately 100,000
19 documents and are reviewing approximately 30,000 of those documents for pro-
20 duction.
- 21 4. On October 18, 2018, after the Court's entry of an Amended Protective Order,
22 Defendants produced more than 30,000 documents to Plaintiffs. Plaintiffs expect
23 to make their first production in the next two weeks.
- 24 5. The Parties served and answered Interrogatories. Plaintiffs responded to Defend-
25 ants' First Interrogatories on July 23, 2018, and responded to Defendants' Second
26 Interrogatories on September 17, 2018. Defendants responded to Plaintiffs' First
27 Interrogatories on August 6, 2018.

6. The Parties are working through discovery-related disputes in a good-faith attempt to avoid Court intervention;

7. The Parties served multiple third-party subpoenas for both depositions and documents, and they have initiated the *Touhy* process for obtaining discovery from the National Institutes of Health; and

8. Defendants have noticed Plaintiffs' depositions, as well as a third-party deposition.

(b) The following discovery remains to be completed:

1. Plaintiffs will produce responsive documents, and Defendants expect to produce additional responsive documents;

2. The Parties will declare and submit reports for any experts they expect to present at trial;

3. The Parties will take fact and expert depositions;

4. The Parties may serve additional third-party subpoenas for documents and/or depositions; and

5. The Parties will continue to seek discovery from the National Institutes of Health.

(c) Given the time it has taken to collect, identify, and review a large amount of electronically stored information, respond to Requests for Production and Interrogatories, and work through discovery-related issues and disputes, and the time it will take to finish seeking discovery from a number of non-parties, the Parties believe that the remaining discovery cannot be completed within the time limits set by the current discovery plan. Defendants note that some discovery—such as the scope of expert disclosures and the number of depositions—may be contingent on the outcome of Defendants' Motions to Dismiss (Dkt. Nos. 11 and 12), which were fully briefed on May 7, 2018, and for which no hearing has been scheduled.

(d) A proposed schedule for completing all remaining discovery is as follows:

1		<u><i>Old Deadline:</i></u>	<u><i>New Deadline:</i></u>
2	Disclosure of initial expert witnesses:	September 17, 2018	January 17, 2019
3	Disclosure of rebuttal expert witnesses:	October 17, 2018	February 19, 2019
4	Discovery cut-off:	November 16, 2018	March 15, 2019
5	Dispositive motions:	December 14, 2018	April 15, 2019
6	Joint pretrial order:	January 18, 2019	May 20, 2019
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1 DATED: October 22, 2018

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3 /s/ David C. O'Mara

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COUNSEL FOR DEFENDANTS

17 **ORDER**

18 **IT IS SO ORDERED:**

20 UNITED STATES MAGISTRATE JUDGE

21 DATED: _____